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Attorneys for Defendants Sather, Abanico, Curry, and Crawford

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

## **IVAN VERNARD CLEVELAND,**

**Plaintiff,**

C 07-2809 JF (PR)

BEN CURRY, Warden, et al.

### Defendants.

**DEFENDANTS' WAIVER OF  
REPLY UNDER 42 U.S.C. §  
1997e(g); DEMAND FOR  
JURY TRIAL**

## I. Defendants Waive Their Right to Reply to the Complaint.

Defendants Sather, Abanico, Curry, and Crawford (Defendants) waive their right to reply to the complaint under 42 U.S.C. § 1997e(g). Under 42 U.S.C. § 1997e(g):

24 Any defendant may waive the right to reply to any action brought by a prisoner  
25 confined in any jail, prison, or other correctional facility under . . . Federal law.  
26 Notwithstanding any other law or rule of procedure, such a waiver shall not  
27 constitute an admission of the allegations contained in the complaint. No relief  
28 shall be granted to the plaintiff unless a reply has been filed.

1 However, "the Court may require any defendant to reply to a complaint brought under this  
2 section if it finds that the plaintiff has a reasonable opportunity to prevail on the merits." 42  
3 U.S.C. § 1997e(g)(2),

4 Here, the Court has set a schedule for dispositive motions, but has not required any reply.  
5 (See Order Directing Defs. to File Dispositive Mot. or Notice Re. such Mot.)

6 **II. Defendants Request a Jury Trial.**

7 Defendants demand a trial by jury in this case. Fed. R. Civ. P. 38(b).

8  
9 Dated: January 29, 2008

10 Respectfully submitted,

11 EDMUND G. BROWN JR.  
12 Attorney General of the State of California

13 DAVID S. CHANEY  
14 Chief Assistant Attorney General

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25 Sather, Abanico, Curry, and Crawford

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**DECLARATION OF SERVICE BY OVERNIGHT COURIER**

Case Name: **Ivan Vernard Cleveland v. Ben Curry, Warden, et al.**

Case No.: **C 07-2809 JF (PR)**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter; my business address is: 455 Golden Gate Avenue, Suite 11000, San Francisco, CA 94102-7004.

On **January 29, 2008**, I served the attached

**DEFENDANTS' WAIVER OF REPLY UNDER 42 U.S.C. § 1997e(g); DEMAND FOR JURY TRIAL**

by placing a true copy thereof enclosed in a sealed envelope with the **California Overnight Service**, addressed as follows:

Ivan Cleveland (H-60545)  
Correctional Training Facility  
5 miles North Highway 101 N  
Soledad, CA 93960  
Pro Per

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on **January 29, 2008**, at San Francisco, California.

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R. Panganiban

Declarant

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/S/R. Panganiban

Signature